

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA ANN MCBRIDE,

Plaintiff,

v.

SSA COMMISSIONER, et al.,

Defendants.

Case No. [25-cv-00666-EMC](#)

**ORDER GRANTING MOTION TO  
DISMISS**

Docket No. 14

**I. INTRODUCTION**

Before the Court is Defendant's Motion to Dismiss Plaintiff's Complaint for failure to state a claim. Docket No. 14. The Court **GRANTS** Defendant's Motion, as Plaintiff has failed to exhaust her administrative remedies, thus this Court does not have jurisdiction over this case. *See* 42 U.S.C. § 405(g); *Bass v. Soc. Sec. Admin.*, 872 F.2d 832, 833 (9th Cir. 1989) ("A claimant's failure to exhaust the procedures set forth in the Social Security Act, 42 U.S.C. § 405(g), deprives the district court of jurisdiction.")

**II. BACKGROUND**

Plaintiff seeks interim supplemental security income (SSI) benefits during the pendency of her appeal. Docket No. 1.

In August 2023, the Field Office determined that Plaintiff had received a substantial amount in royalties, putting her above the statutory limit for eligibility for SSI benefits. Estrada Decl. at 3 ¶ 5. These royalties were related to mineral rights, and as part of her appeal, Plaintiff agreed she would sell her excess resources. Estrada Dec. at 3 ¶ 6. Plaintiff was then granted benefit continuation until the Field Office issued a determination on the excess resource issue.

Estrada Dec. at 3 ¶ 7. Separately, the Field Office ceased Plaintiff's SSI benefits in July 2024 because it determined she had excess resources related to \$50,000 in bingo winnings. Estrada Dec. at 3 ¶ 9. Plaintiff has appealed both determinations.

Defendants represent that Plaintiff has been informed that to receive conditional SSI benefits pending appeal, Plaintiff must either sell her resources for market value, or she may receive conditional benefits if she submits a form to the Field Office stating that she agrees to sell those resources for market value. Motion at 2. The Field Office has no evidence that Plaintiff has sold her mineral rights. Estrada Dec. at 3 ¶ 11. As of April 17, 2025, Plaintiff has not done so. Estrada Dec. at 3 ¶ 13. Though she now challenges the cutoff of interim benefits, Plaintiff does not dispute that she has failed to exhaust her administrative remedies seeking such interim relief.

### III. DISCUSSION

Prior to bringing an appeal to this Court, Plaintiff must exhaust her administrative remedies. *Bass v. Soc. Sec. Admin.*, 872 F.2d 832, 833 (9th Cir. 1989). Here, as it relates to Plaintiff's conditional benefits pending her appeal, Plaintiff has an administrative remedy available to her to obtain interim benefits. For example, according to Defendants, Plaintiff may seek the relief she requests by filing the necessary SSA-8060-U3 form regarding the mineral rights with the Field Office.<sup>1</sup> She has not done so. To get around the need to exhaust her administrative remedies, Plaintiff argues she will suffer irreparable harm absent relief from this Court. However, this does not excuse exhaustion. Because Plaintiff has failed to exhaust her administrative remedies, this Court lacks jurisdiction over Plaintiff's present dispute over her interim conditional benefits.

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<sup>1</sup> Because Plaintiff's benefits were ceased due to excess resources, Plaintiff's case is not governed by 42 U.S.C. § 423(g) or 42 U.S.C. § 1383(a)(7)(A) (detailing continuing benefits for people whose benefits were cutoff due to a change in the underlying impairments). Here, Plaintiff must look to the Commissioner's process that allows her to seek short-term benefits pending her appeal. "The regulations allow the SSA to pay claimants SSI benefits on a short-term basis if they agree to dispose of their excess resources. 20 C.F.R. § 416.1240(a); *see also* POMS SI 01150.200 (describing this process in greater detail)." Reply at 4.

1 IV. CONCLUSION

2 Plaintiff's Complaint is hereby dismissed **without prejudice**. The Clerk of the Court is  
3 directed to close this case.

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5 **IT IS SO ORDERED.**

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7 Dated: July 15, 2025

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10 EDWARD M. CHEN  
11 United States District Judge  
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